

NATIONAL ADVERTISING DIVISION®

70 West 36th Street, New York, NY 10018



NARC PARTNERS

October 28, 2004

BY FEDERAL EXPRESS

Bill McComb
President
McNeil-PPC, Inc.
7050 Camp Hill Road
Fort Washington, PA 19034-2299

Re: Advertising for Splenda®

Dear Mr. McComb:

We are inquiring about advertising for Splenda®, which has been brought to the attention of the National Advertising Division ("NAD") by Merisant Company ("Merisant").

Who We Are:

Since 1971, NAD has served both the business community and the public by seeking to sustain high standards of truth and accuracy in national advertising through a self-regulation program designed by the advertising community and administered by the Council of Better Business Bureaus, Inc. The goals of this program are to ensure the integrity and credibility of national advertising and to avoid undue government interference with advertising practices.

To accomplish its goals, NAD both monitors national advertising and entertains inquiries/challenges from competing companies and consumers. Our inquiries are conducted according to published *NAD/NARB Procedures*. A copy is enclosed together with a copy of a Participation Agreement, which explains the obligations of the participants in an advertising review proceeding. The *Procedures* were adopted by the advertising industry in 1990, and revised in 2004, to accelerate and strengthen the self-regulatory process by providing a full and fair, yet expeditious dialogue.

The Claims at Issue:

A copy of the "Merisant" letter, dated October 22, 2004 is enclosed.

Based on our initial review of the challenger's materials, we have identified the following claims as those that form the basis for the inquiry:

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Express Claim:

"Made from sugar so it tastes like sugar."

Implied Claim:

The logo and tagline of the product, including the statement "made from sugar" conveys the implied message that: 1) Splenda is a natural product and 2) Splenda contains sugar.

Participant's Responsibilities:

We ask that you provide substantiation for your claims and address all of the issues and concerns raised by the challenger. This should include all relevant product testing, market data, as well as any consumer research you have conducted.

Please furnish two hard copies of your response, and one copy in electronic format (an e-mail, diskette, or CD copy), so that we may forward one to the challenger for reply. If you have reservations about the proprietary nature of any of your substantiating material, the advertiser's options are described in the Procedures at §§ 2.4(D).

In addition we request that samples of all current advertising for the campaign in question be sent in digital format (i.e., CD, DVD), with the signed Participation Agreement, under separate cover and prior to the advertising support data. This should include, not only the challenged advertisement(s), but all advertising available or used for television, radio, dealer ads, co-op ads, etc., and any current Web or other on-line advertising. As soon as we have had an opportunity to review the complete campaign, we will let you know if NAD has any additional concerns regarding this advertising.

I draw your attention specifically to §§ 2.5 through 2.9, which set strict limits on the time allowed for the conduct of the inquiry at the NAD level. I also enclose a recent issue of *NAD Case Reports*, which is the permanent record of the inquiries resolved the previous month and discloses the NAD promotional policies with regard to its decisions. NAD's decisions are also available by subscription on-line at www.nadreview.org.

If the claims subject to this challenge have been discontinued and will not be used in future advertising, we ask that you please indicate these circumstances in your first written response. To speed communications, we request that you designate one person (and deputy) to represent your company. We request that your principal contact complete the enclosed Advertiser's Information Sheet without delay and return it by facsimile transmission.

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Cory Greenberg, an attorney and advertising review specialist, will be representing NAD in this matter and may be reached at (212) 705-0119, fax number (212) 705-0130 and e-mail address cgreenberg@nad.bbb.org. Applying the *Procedures* to the current inquiry, we look forward to receiving your substantive written response prior to 4:00 p.m. (Eastern Time), November 19, 2004. We appreciate the support of the advertising community for the self-regulation program and request that you give this matter prompt attention.

Sincerely,



Andrea C. Levine, Esq.
Vice President, Director

cc: Gregg F. LoCascio, Esq.

McNeil-PPC, Inc. – Legal Department (w/o enclosures)

Enclosure